

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY SECOND DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 6979 of 1999

Between:

P. Prabhakar Rao, S/o.Appa Rao,

50-39-9/3, T.P.T.Colony,

Visakhapatnam

..... PETITIONER

AND

1. The Government of Andhra Pradesh, represented by its

Secretary, Urban Ceiling Department, Secretariat,

Hyderabad.

2. The Commissioner of Land Reforms & Urban Land Ceiling,

Andhra Pradesh, Hyderabad.

3. The Special Officer & Competent Authority,

Urban Land Ceiling, Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in rejecting the request of the petitioner for grant of exemption for an extent of 196 Sq.mts in S.Nos.29 & 37 situated in Allipuram Extension Ward, Visakhapatnam, under Section 20(1)(b) of the Urban Land (Ceiling & Regulation) Act, 1976 vide the impugned Government Memo No.1133/UC.I(2)/85-13, dt.17.11.1998 communicated to the petitioner on 12.1.1999, as the same is highly illegal, arbitrary and violative of Art. 14 of the Constitution of India and also contrary to the provisions of the Urban Land Ceiling & Regulation Act, and set aside the same and consequently direct the respondents to grant exemption

under Section 20(1)(b) of the Act in favour of the petitioner for the above mentioned extent.

Counsel for the Petitioner:MR.G.V.SHIVAJI

Counsel for the Respondents: GP FOR REVENUE

The Court made the following :

ORDER:

The petitioner herein owns urban land in the urban agglomeration of Visakhapatnam. He was declared to be surplus holder of 196 Sq.mts in S.Nos.29 and 37 of Allipuram Extension Ward of Visakhapatnam by proceedings dt.21.5.1981. The petitioner submitted a representation/ application to first respondent seeking exemption of said land under Section 20(1) of the Urban Land (Ceiling and Regulation) Act, 1976 (for short, the Act). By impugned order dt.17.11.1998 first respondent rejected the request for exemption as it was found to be not feasible. Learned counsel for the petitioner contends that second respondent, who initially processed the representation of the petitioner recommended the case of the petitioner for exemption taking into consideration undue hardship the petitioner might suffer if the surplus land is taken over by the Government. The Government, however, rejected the application without considering the recommendation of the second respondent.

Under Section 20(1)(a) of the Act the power to exempt inheres in the Government. While so doing, it is always permissible for the Government to get necessary facts from the lower authorities. It does not, however, mean that reports submitted by lower authorities are binding on the Government which alone is given plenary power to pass orders exempting the land from the purview of the Act. When the Government found granting of exemption is not feasible, it would not be proper for this Court to take a different view.

The Writ Petition is misconceived and is accordingly dismissed. No costs.

(V.V.S.RAO, J)

22.7.2004

bnr

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Secretary to Government, Government of Andhra Pradesh,
Urban Ceiling Department, Secretariat, Hyderabad.
2. The Commissioner of Land Reforms & Urban Land Ceiling,
Andhra Pradesh, Hyderabad.
3. The Special Officer & Competent Authority,
Urban Land Ceiling, Visakhapatnam.
4. 2 CCs to GP for Revenue, High Court Buildings, Hyderabad (OUT)
5. 2 CD copies.